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MAY 06 2009

OFFICE OF PETITIONS

In re Application of  
Mark William Janoska, et al.  
Application No. 09/275,934  
Filed: March 24, 1999  
Attorney Docket No.: 1400.4100209

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 9, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before December 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2008. A Notice of Abandonment was mailed on January 12, 2009. In response, on March 9, 2009, the present petition was filed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Gregory J. Murgia appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Murgia desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Murgia, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510, (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay<sup>1</sup>.

The application is being referred to the Office of Data Management to be processed into a patent.

<sup>1</sup> 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

cc: GREGORY J. MURGIA  
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